

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application: 09 / 767,422
Date of Deposit: January 19, 2001
Filing Date: January 19, 2001
Date of Re-deposit: January 22, 2001
Assigned Filing Date: January 22, 2001
Title: SYSTEM AND METHOD FOR CONDUCTING ELECTRONIC COMMERCE
Applicants: Schroeder et al.
Group Art Unit: 2164
Examiner: To Be Assigned
Attorney Docket: 030633.0010

Affidavit of David A. Porter

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

After being sworn, the Affiant deposed as follows:

My name is David A. Porter. I am over eighteen years old, of sound mind, and competent to give this affidavit. I have personal knowledge of the facts in this affidavit, and they are believed to be true and correct.

On Monday, January 22, 2001, I was an employee and Account Operations Manager of Bowne Business Solutions, doing business at Brobeck, Phleger & Harrison LLP, 4801 Plaza on the Lake, Austin, TX 78710. On that day, the United States Postal Service returned to me an Express Mail envelope bearing Express Mail Mailing Label EF062434188US (which I understand contained the above-captioned patent application and related correspondence (hereinafter, "Patent Application"). I attempted, but was not permitted, to rectify a \$2.25 "Short Postage" noted on the Express Mail envelope containing the Patent Application at the General

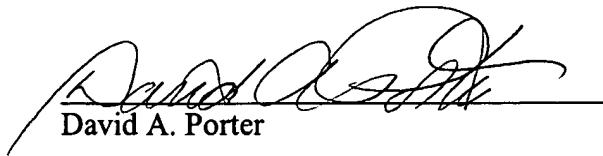
Mail Facility at 8225 Cross Park Drive, Austin, TX 78710 (hereinafter, "GMF") without placing the Patent Application in a new envelope or wrapper.

Thus, I then placed and sealed the original Express Mail envelope containing the Patent Application in a second envelope bearing Post Office to Addressee Express Mail Mailing Label EF062173947US. I had the United States Post Office affix \$16.00 in postage to that second envelope and deposited it with Mr. Conrad A. Gratti, a GMF window clerk, before that day's last scheduled mail pickup, which was 6:00 p.m. on January 22, 2001.

From the time the Post Office returned the original Express Mail envelope with the Patent Application to me on January 22, 2001 and the time I re-deposited it with the GMF on that same day, I retained sole and exclusive custody and control of the original Express Mail envelope containing the Patent Application, and never opened the original envelope. Thus, I did not alter the Patent Application, nor do I believe the Patent Application was altered, in any way subsequent to the original January 19, 2001 date of deposit as Express Mail with the GMF.

In my work for Bowne Business Solutions at Brobeck, Phleger & Harrison LLP, I have previously experienced that the United States Postal Service would deliver shortpaid Express Mail received at the GMF, without delaying delivery, and subsequently the United States Postal Service would send a letter requesting the additional postage. More particularly, two days prior to mailing the Patent Application, I received from the GMF a letter requesting additional postage for an Express Mail item it had forwarded without delay despite short postage. In addition, on January 23, 2001, Ms. Debbie Polunko, who then worked in the "Expedited Services" area at the GMF, advised me that the Patent Application should have been forwarded even though there was "short postage" attached and that all Postal Clerks should be aware of this policy.

Further Affiant sayeth not.

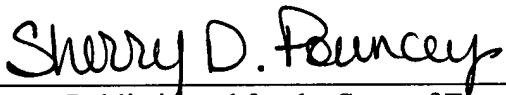


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BEFORE ME, the undersigned authority, on this day personally appeared David A. Porter, and known to me to be the person whose name is subscribed to the foregoing Affidavit, acknowledged to me that he executed the same in the capacity and for purposes and consideration therein expressed, of his own free act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this, the 21st day of
August, 2001.



Sherry D. Pouncey

Notary Public in and for the State of Texas

My commission expires: 8/15/05

